

In the Court as set by Article 3 of the Constitution for the United States of America which court is set for:

**district court of the United States
FOR THE WESTERN DISTRICT OF NEW YORK**

Daniel J. Wik

Plaintiff,

v.

Donald R. Kunego,

**AFFIRMATION IN SUPPORT OF
RESPONSE TO
DEFENDANT'S AFFIRMATION
OF COUNSEL FOR
SANCTIONS**

CASE NO: 6:11-cv-06205 CJS

Defendant:

Daniel J. Wik respectfully presents and affirms the following under penalty of perjury, under the laws of the United States of America without the "United States" (federal government):

1. I submit this Affirmation in support of my Response to Defendants Affirmation of Counsel for Sanctions. The information set forth in this Affirmation is based upon my personal knowledge and review of the proceedings in this action and are true and correct to the best of my knowledge.
2. I, Daniel Joseph Wik, am the aggrieved party. I am not representing (re-presenting) myself, I am myself, I am **not** pro se, and I brought this action and this Response in, and by, my own proper self. I am a sui juris homo liber, a living, breathing human man of the soil domiciled in the republic known as New York, not the State of New York, not a federal territory or enclave of the United States, aka federal government. I am not a resident, citizen, or member of the body politic of the United States or the State of New York, who has never voluntarily waived any Rights nor appears in any diminished capacity, nor volunteered into servitude but only appears as a sovereign American National man, a New Yorker from and in the state of New York, not a corporation, re-presented, partner, trustee, surety, legal entity, any fictitious entity, or as an agent but as a holder of due power.

3. I reserve all Rights and waive none unless expressly done so in writing with full knowledge and disclosure. The terms "Plaintiff" and "Plaintiff's", as used in this action, when in specific relation to this action, are defined as a first person singular pronouns (like: I, me, mine, etc.), which pronouns always with regard to this action mean: Daniel J. Wik, the man, or his possessory interest.

Point 1

4. From the inception of this case I have never claimed to be Pro Se.
5. This court has labeled me as Pro Se but I have never acquiesced to be Pro Se.
6. I am not Pro Se, I am not representing (re-presenting) myself I am myself, without representation and brought this action in my capacity as a Man and not as a natural person giving consciousness and physical capacity to any legal entity or person.
7. The facts relative to this action occurred in the state of New York, not the State of New York, and wronged and trespassed on me the Man Daniel Joseph Wik and not any other entity or person.
8. I filed this action in the district court of the United States as an Article III Court of the United States of America, based on the representation from the clerk's office that this court was the district court of the United States as set by Article III Court of the United States of America.
9. The Plaintiff in this action is Daniel Joseph Wik the Man not any entity or person.
10. The Man Daniel Joseph Wik is not representing anyone or anything.

Point 2

11. Even though his Court has labeled me Pro Se against my will, I have never acquiesced to being Pro Se.
12. Pursuant to the Courts rules all documents filed by any party without representation by an attorney must be review by the Courts Pro Se Attorney before the clerk accepts them for filing.
13. If my Motion lacked merits, were frivolous, or were to harass it was the ministerial duty of the Pro Se Attorney to withhold their filing.

14. Since the Pro Se Attorney is required to review the documents prior to filing by a no attorney then it would appear that the Pro Se Attorney did not believe the motion to be anything other than a genuine Motion based on the merits, facts, and documents relative to this case.
15. It is further apparent that the Pro Se Attorney did not believe the Motion to Reconsider/Clarify/Object was to harass or to needlessly increase the cost of this litigation or for any improper purpose or he/she would have not approved them for filing.
16. I did not file the Motion to Reconsider/Clarify/Object to harass or to needlessly increase the cost of this litigation or for any improper purpose.
17. I filed to Motion to Reconsider/Clarify/Object to have the Court address my arguments in Law and issue a finding of fact and conclusion of law and to preserve my Rights since my issues have been blatantly ignored by this Court.

Point 3

18. I did not file the Motion to Reconsider/Clarify/Object in order to harass or to needlessly increase the cost of this litigation or for any improper purpose.
19. I specifically claim the issues involved in said motion are valid legal arguments which have been briefed for the Court, clearly showing the merits argued and the questions raised for the Court.
20. The court will not address my motions and questions and continues to deny me due process and access to the Courts by ignoring the issues and attempting to suppress them by threats of dismissing my cases and summarily labeling them as frivolous without any reasons to support the conclusion rather than address why the arguments are being labeled as such by the court.
21. This court has twice summarily ignoring my issues and arguments by referring to them as frivolous without any further explanation or finding of fact or conclusion of Law.
22. As a matter of Right I am entitled to a finding of fact and conclusion of law.
23. Whether the issues in said motion are correct or incorrect I am entitled to a finding of fact and conclusion of Law so I may be able to make a proper determination of if the Court's

Decision and Order is valid, void, or voidable to be able to research and determine the proper cause of action and remedy to obtain relief my the trespass of my Rights.

24. What I have been repeatedly requesting is in accordance with the ideal of judicial economy. If I am overlooking something or my stance at Law is flawed I do not wish to waste my, the Defendants, or the courts time, money and/or resources appealing something that is incorrect but until I am provided a finding of fact and conclusion of law that I can research and determine for myself that I am incorrect or flaw I will press forward belligerently attempting to obtain justice and I do not believe this court may not be the source of justice.
25. No court to my knowledge has ever ruled this matter I have asserted to be frivolous. Based on the facts in the brief I have previously supplied to this Court, other Courts have addressed the differences that I have questioned and the arguments presented.

Point 4

26. In this particular instance the doctrine of judicial immunity is being unconstitutionally and/or nonconstitutionally applied to me.
27. Defendant is holding himself out to be a public officer of the state of New York however by operation of law he cannot hold the office due to defects in the requirements.
28. Defendant may be an employee but as such the doctrine that this Court is attempting to apply is misplaced.
29. I am a Man in the state of New York who has not voluntarily waived Rights for privileges and immunities.
30. I believe in this particular forum this Court does not acknowledge my Rights as a Man but only acknowledges privileges and immunities of persons.
31. The issues I have brought up are based on Law, the Constitution of the United States of American, and the laws and the Constitution of the state of New York.
32. I have briefed out many of these issues for the Court and included decisions from Courts higher than this Court.
33. This Court had previously closed this case and now is attempted to ignore the issues I had raised again in the motion and sanction me for issues it refuses to address and sanction

me for belligerently prosecuting the cause of action for a violation of my Constitutionally secured Rights.

Point 5

- 34. What this court is effectively doing is requiring me to waive my Rights or have all my cases dismissed, or have sanction applied.
- 35. If I assert my Right's or assert a position that the Court doesn't not want placed in the record this Court is claiming to have the authority to sanction me.
- 36. This Court is attempting to sanction me because I am asserting arguments that displease the Court.

Point 6

- 37. This Court may have proceeded in the complete absence of all jurisdiction.
- 38. I did not voluntarily bring the action in a Court that was not an Article III Court of the United States of America which is bound to acknowledge my Rights as a man and uphold them.
- 39. I was told by the clerk's office that this Court was the Article III district court of the United States.
- 40. My paperwork specifically was titled for such Court.
- 41. I have briefed the difference of both courts and the courts have ruled the district court of the United States is not the same court as the United States District Court.
- 42. This court may not wanting the issues brought up and is attempting to suppress the facts but that does not mean the Motion was frivolously filed with intent to harass or increase litigation.
- 43. This Court has the appearance that it has bias and prejudice against me and is attempting to sanction me because of the issues I have risen and is attempting to suppress those issues by bullying me with fears of sanctions and dismissing all my cases rather than issuing a Decision and Order on the merits and addressing the issues.
- 44. If this Court is asserting that I have no Rights, no remedy, and am bound to the will of the United States and it's State then please state so, so that I at least have confirmation that these entities have placed me in involuntarily servitude against my will and if I have a

dispute all I can assert is statutory defense under privileges and immunities rather than based on Rights.

45. It is a very sad time and place when you have a group of people exercising control of others who have put themselves above the law and operate under the guise of law violating the Rights of Men without responsibility for their wrongful acts.
46. My filing the Motion does not warrant any sanctions.
47. Notice is given that any sanctions that may be imposed will be appealed.

Conclusion

48. The Court is expected to be fair and impartial; the refusal of this court to provide a finding of fact and conclusion of law has the appearance of bias, prejudice and denies me due process and equal protection of the law and trespasses on my constitutionally secured Rights. Just because the court is refusing to address the stance in Law that I have put forth does not mean the issues are frivolous, to harass, or to increase the cost of litigation and as such do not warrant sanctions. Even if my arguments are flawed or incorrect I am entitle to have then answered and not summarily labeled frivolous after briefing the issues and clearly showing the points presented exist as discussed by higher courts. All I want is justice, my Rights acknowledged and upheld and to be made whole again for the trespasses of my rights which I have never knowingly willingly or intentionally waived.

August 9, 2013

Daniel J. Wik

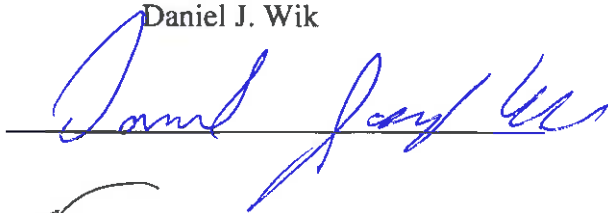


Plaintiff without representation

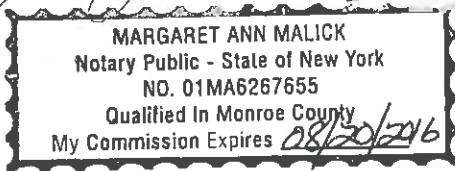
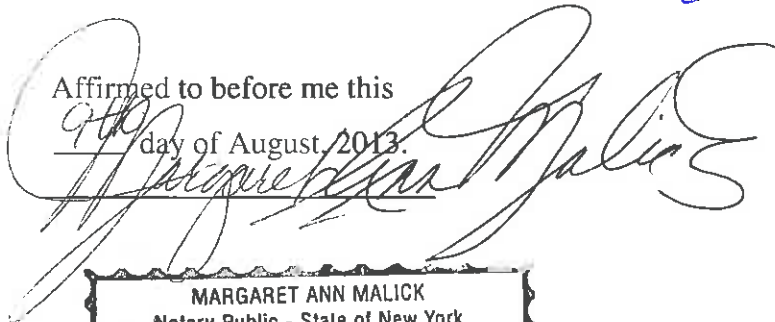
in propria persona
c/o non-domestic
659 Averill Avenue
Rochester, New York 14607
(585)-957-5902

I, Daniel J. Wik, hereby certify, under penalty of perjury, under the laws of the United States of America, without the "United States" (federal government), that the foregoing is true and correct to the best of my knowledge and belief.

Daniel J. Wik



Affirmed to before me this
9th day of August, 2013.



In the Court as set by Article 3 of the Constitution for the United States of America which court is set for:

**district court of the United States
FOR THE WESTERN DISTRICT OF NEW YORK**

Daniel J. Wik
c/o non-domestic
659 Averill Avenue; near:
Rochester, New York

Plaintiff,

v.

PROOF OF SERVICE

Donald R. Kunego
46 Kaymar Drive
Bergen, New York 14416

CASE NO:6:11-cv-06205-CJS

Defendant:

PROOF OF SERVICE

I, Daniel J. Wik, hereby certify, under penalty of perjury, under the laws of the United States of America, without the "United States" (federal government), that I am at least 18 years of age, and that I personally served the following document(s):

Response to Defendants Affirmation of Counsel for Sanctions

by depositing the same properly and securely enclosed in a sealed wrapper one true and correct copy of said document(s) in a post-office box regularly maintained by the United States, and under the care of the post office at Rochester, New York on the 9th of August 2013, with first class postage prepaid and properly addressed to each of the following:

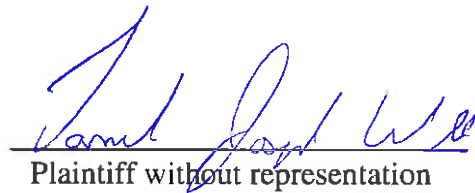
Lippman O'Connor
300 Olympic Towers

300 Pearl Street

Buffalo, NY 14202

Att: Robert H. Flynn

Daniel J. Wik,



Plaintiff without representation
in propria persona
c/o non-domestic
659 Averill Avenue
Rochester, New York
(585)-957-5902